

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS RELEASE

9344/88 (Presse 174)

1275th Council meeting
- Internal Market -
Brussels, 18 November 1988

President: Mrs Vasso PAPANDEOU

Deputy Minister for Trade
of the Hellenic Republic

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Mr Paul DE KEERSMAEKER State Secretary for European
Affairs and Agriculture

Denmark:

Mr Hans DUBORG State Secretary, Ministry of
Industry

Germany:

Mr Martin BANGEMANN Federal Minister for economic
Affairs

Mr Otto SCHLECHT State Secretary, Federal Ministry
of Economic Affairs

Greece:

Mrs Vasso PAPANDEOU Deputy Minister for Trade

Spain:

Mr Pedro SOLBES State Secretary for Relations with
the European Communities

France:

Mrs Edith CRESSON Minister for European Affairs

Ireland:

Mr Seamus BRENNAN Minister of State at the Department
of Industry and Commerce

Italy:

Mr Antonio LA PERGOLA Minister with responsibility for
Community Affairs

Luxembourg:

Mr Robert GOEBBELS State Secretary for Foreign Affairs,
Foreign Trade and Co-operation

Netherlands:

Mr B.J.M. Baron van VOORST
tot VOORST

State Secretary for Foreign
Affairs

Portugal:

Mr Victor A.M. da COSTA MARTINS

State Secretary for European
Integration

United Kingdom:

Mr Francis MAUDE

Under-Secretary of State,
Department of Trade and Industry

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o

Commission:

Lord COCKFIELD
Mr Peter SUTHERLAND

Vice-President
Member

DIETETIC FOODS

The Council reached agreement on a common position concerning the Directive on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses.

The original Directive 77/94/EEC which currently governs this sector and which provides for the possibility for the Member States to adopt national derogations in the absence of specific Community Directives, will be repealed.

The new Directive lays down general rules governing all foodstuffs intended for particular nutritional uses. It determines the list of groups of foodstuffs for which special provisions will be adopted, viz.:

- infant formulae
- follow-up milk and other follow-up foods
- baby foods
- low-energy and energy-reduced foods intended for weight control
- dietetic foods for special medical purposes
- low sodium foods, including low-sodium or sodium-free dietary salts
- gluten-free foods
- foods intended to meet the expenditure of intense muscular effort, especially for sportsmen
- foods for persons suffering from carbohydrate metabolism disorders (diabetes).

A prior information procedure is laid down in the case of dietetic foods not included in the list in the Directive and the free movement of which is provided for on the entry into force of the Directive. This procedure is not, however, a condition for their being marketed. At the end of a 4-year period the Commission will forward a report on the application of this procedure together, where necessary, with any appropriate proposal.

The Commission is entrusted with the adoption of specific Directives on the foodstuffs listed above, with the exception of the lists of authorized additives, which are to be adopted by the Council in co-operation with the European Parliament.

The Council will formally adopt its common position on this proposal as soon as the text has undergone legal/linguistic finalization in accordance with the usual procedure.

FOODSTUFFS - LABELLING AND ADVERTISING

The Council reached agreement as to the substance of a common position on the Directive amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs.

Essentially the Directive extends the scope of Directive 79/112/EEC to foodstuffs intended for mass caterers. In addition, it aims to abolish all the derogations granted to the Member States hitherto; this will be achieved partly by the provisions of the Directive and partly by a delegation of powers to the Commission to bring about this abolition by means of a simplified procedure.

On the same occasion the Council also settled a number of technical points still outstanding; the question of the indication that the ingredients of foodstuffs have been irradiated was referred back to the Directive announced by the Commission on "irradiation processes".

This Directive will complete the horizontal statutory system provided for by the White Paper and its text constitutes the very basis for the attainment of the single market in foodstuffs as regards the "consumer information" aspect - the "health" aspect being covered by the Directives on materials coming into contact, additives and dietetic foods.

OFFICIAL INSPECTION OF FOODSTUFFS

The Council took note of the progress of proceedings on the amended proposal for a Directive on the official inspection of foodstuffs and instructed the Permanent Representatives Committee to expedite its examination so that the Council could adopt a common position at its next Internal Market meeting on 21 December 1988.

IDENTIFICATION OF THE LOT TO WHICH A FOODSTUFF BELONGS

The Council reached agreement on a proposal for a Directive on indications or marks identifying the lot to which a foodstuff belongs.

This Directive is in response to the concern for better information on the identity of products so as to provide the relevant information when foodstuffs are the subject of a dispute or constitute a danger to the health of consumers.

Directive 79/112/EEC on the labelling, presentation and advertising of foodstuffs for sale to the final consumer does not contain any provisions concerning the identification of lots. However, some Member States have adopted national regulations concerning this indication since at international level reference to the manufacturing or packaging lot for pre-packaged foodstuffs will in future be a general requirement.

The Directive provides for exceptions in respect of foodstuffs sold in bulk and certain other products. It also authorizes the marketing of products without any indication of the lot until stocks are used up.

LATERAL PROTECTION OF GOODS VEHICLES

The Council reached agreement on a common position on the Directive on the approximation of the laws of the Member States relating to the lateral protection of certain motor vehicles and their trailers.

The aim of this Directive is to provide under Community rules for the installation on the sides of heavy goods vehicles (N2 and N3) of devices to prevent certain road users (pedestrians, cyclists and users of two-wheeled vehicles) being caught under the wheels of such vehicles.

The scheduled date of entry into force is 1 June 1990 for the EEC type-approval of new models and 1 January 1991 for the first entry into service of any vehicle covered by the Directive.

TRADE MARK LAW - COMMUNITY PATENTS

On the basis of an overall compromise proposal from the Presidency, the Council discussed the main questions still outstanding as regards the trade mark proposals, viz. in particular the headquarters of the Community Trade Mark Office and the languages to be used. In this connection it also discussed the question of the conclusion of the Agreement on Community patents.

At the close of the discussion it was noted that there were still differences of opinion.

In the circumstances, the Conference of Member States on the conclusion of the Agreement on Community patents, scheduled for December in Luxembourg, was postponed.

COMPLETION OF THE INTERNAL MARKET

The Council heard an introductory statement by Lord COCKFIELD, Vice-President, outlining the main features of the report, prepared by the Commission under Article 8B of the Single Act, on the progress of the work on completion of the 1992 Internal Market. This report is intended for the European Council to be held on 2 and 3 December in Rhodes.

In his statement Lord COCKFIELD referred both to the areas in which, in the Commission's opinion, progress had been satisfactory and to those in which special efforts had still to be made.

STATUTE FOR THE EUROPEAN COMPANY

The Council discussed in detail the three main questions put by the Commission in its memorandum on the statute for the European company, viz.

- the optional nature of the statute
- the independence of the statute in relation to national laws
- the inclusion of three methods of providing for employee participation.

The discussions revealed that a broad majority of delegations was in favour of the guidelines proposed by the Commission, although on the third guideline the majority related only to the principle of including an employee participation arrangement in the future statute for a European company.

In the light of this majority, the Council invited the Commission to submit a formal proposal on this subject.

CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS

The Council resumed its examination of the file on the control of concentrations between undertakings, taking into account the amendments the Commission had made following the European Parliament's proceedings. It had a detailed discussion on the following three fundamental aspects:

- principle of the exclusive application of Community law in the assessment of concentration operations with a Community dimension under the competition rules
- principle of compatibility or incompatibility as a starting point in the assessment of a concentration operation with a Community dimension, the decisive criterion for prohibiting being the creation of a position on the European market which impedes effective competition
- problem of the suspensive effect of the notification of a concentration operation.

At the close of the discussions the President noted that significant progress had been made on the three questions and in particular that there was agreement on the principle of "exclusivity of Community control" subject, however, to certain conditions imposed by several delegations, especially in respect of the determination of thresholds.

On the second question of "compatibility/incompatibility", it was acknowledged that the approach should be based on the concept of "neutrality" as it emerged from the discussion in the light of the explanations given by Mr SUTHERLAND at the meeting.

On the third question, of the "suspensive effect", the discussions served to clarify the positions of the delegations and to pinpoint more precisely the extent of the problem, with a definitive majority emerging in favour of the suspensive effect.

In conclusion, the Council instructed the Permanent Representatives Committee to continue its discussions on the basis of the guidelines evolved, so that the Council could expedite its deliberations on this file at its next meeting on 21 December with a view to reaching a conclusion.

BROADCASTING ACTIVITIES

The Council had a thorough discussion on a number of key issues arising in connection with the three main chapters of the proposal for a Directive on the co-ordination of the provisions of the Member States concerning the pursuit of broadcasting activities, viz. the quotas reserved for Community works, advertising and the protection of minors.

The discussions served to bring the delegations' positions closer on some of these issues.

At the close of the discussion the Council instructed the Permanent Representatives Committee to continue this examination and to organize it in such a way that the Council could take a decision on this important matter as soon as possible.

APPROXIMATION OF THE LAWS RELATING TO MACHINERY

The Council took note of the progress of work on the proposal for a Directive on the approximation of the laws of the Member States relating to machinery.

Having stressed the importance it attached to this proposal, it instructed the Permanent Representatives Committee to continue its examination so that the Council could adopt a common position at its next Internal Market meeting on 21 December 1988.

SUSPENSION OF AUTONOMOUS COMMON CUSTOMS TARIFF DUTIES

The Council adopted the Regulation temporarily suspending the autonomous Common Customs Tariff duties on a number of industrial products from 1 January 1989 in response to requests by certain Member States.

OTHER DECISIONS CONCERNING THE INTERNAL MARKET

EEC-Switzerland Agreement on direct insurance other than life assurance

The Council agreed in principle on the conclusion of the Agreement between the Community and the Swiss Confederation designed to remove barriers to the freedom of establishment of undertakings in the field of direct non-life insurance.

As some technical amendments need to be made to the text of the Agreement, however, the Council instructed the Commission to negotiate these amendments with the Swiss authorities.

The Council expects the Commission to submit to it a final report on these negotiations in time for the Agreement to be concluded and signed by the Contracting Parties not later than 1 June 1989.

Proprietary medicinal products

The Council adopted common positions on the Directives

- amending Directives 65/65/EEC, 75/318/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products.

The aim of the Directive is

- = to extend the scope of the present regulations to medicinal products hitherto excluded.

= to improve certain provisions both from the point of view of public health in the Community and by introducing certain provisions based on the concern also to protect the consumer of Community medicinal products in non-member countries.

- extending the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products and laying down additional provisions for immunological medicinal products consisting of vaccines, toxins, serums or allergens.

This Directive aims to supplement Community regulations on medicinal products with provisions peculiar to immunological medicinal products hitherto not included.

Customs union

The Council formally adopted the Regulations temporarily suspending the autonomous Common Customs Tariff duties on

- certain products intended for the construction, maintenance and repair of aircraft
- a number of agricultural products.

Fruit Juices

The Council adopted a common position on the Directive amending for the third time Directive 75/726/EEC on the approximation of the laws of the Member States concerning fruit juices and certain similar products.

Under this amendment the Commission is entrusted with the management of the "acquis communautaire" in this sector and certain technical amendments are made to the existing provisions.

(See Press Release No 8674/88 of the Internal Market Council on 14 October 1988).

Jams, jellies and marmalades

The Council formally adopted the Directive amending Directive 79/693/EEC on the approximation of the laws of the Member States relating to fruit jams, jellies and marmalades and chestnut puree.

The aim of the Directive is in particular to entrust the Commission with the management of the "acquis communautaire" in this sector, with the exception of questions concerning additives, for which the Council is still responsible, and to make a number of amendments to Community regulations in the light of experience gained since they were adopted. (See Press Release No 8674/88 of the Internal Market Council on 14 October 1988).

Bruxelles, le 17 novembre 1988

Note BIO (88) 363 aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

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Préparation Conseil Marché Intérieur du 18.11.1988 (E. Reuter)

Le Conseil marché Intérieur commencera à 9.30 heures et sera présidé par Mme Papandreou. Lord Cockfield et M. Sutherland représenteront la Commission. L'ordre du jour comporte 16 points. La présidence et la Commission s'attendent à ce que sur un certain nombre d'entre eux il sera possible soit d'adopter des positions communes, soit de dégager des accords politiques permettant des décisions formelles dans un proche avenir. Les 16 points à l'ordre du jour peuvent se regrouper en plusieurs thèmes :

- libre circulation des médicaments,
- législation alimentaire,
- normes techniques,
- propriété intellectuelle,
- droit des sociétés.

Quant au premier thème, l'examen des propositions relatives à l'extension des directives concernant les spécialités pharmaceutiques et les médicaments immunologiques à des médicaments non encore inclus devrait permettre l'adoption d'une position commune qui contribuera de façon significative à façonner l'Europe du médicament. On peut rappeler que lors de sa session de novembre 1988, le Parlement européen a, en deuxième lecture, approuvé la position commune sur la directive concernant la transparence des mesures réglissant le prix des médicaments et leur remboursement par les systèmes nationaux de sécurité sociale. Lorsque cette directive aura été définitivement adoptée par le Conseil, vraisemblablement avant la fin de l'année, la Communauté européenne sera enfin outillée pour développer une politique sociale favorable à la recherche pharmaceutique et aux investissements industriels, sans discrimination, en Europe.

Les textes sur la table de ce Conseil visent à améliorer l'information des patients, à garantir la qualité des vaccins et l'efficacité des produits radio-pharmaceutiques utilisés dans les diagnostics ainsi qu'à formuler la législation applicable aux médicaments dérivés du plasma humain. Cette dernière question soulève des problèmes difficiles éthiques et médicaux (p.ex. don gratuit du sang, risques de contamination notamment par le SIDA, etc.).

Sur le plan de la législation alimentaire, le Conseil devrait adopter en point A les textes relatifs aux jus de fruits et aux confitures qui furent discutés lors du dernier Conseil. Le Conseil devrait également faire des progrès sur nos propositions de directives concernant les aliments diététiques, l'étiquetage et la présentation de denrées alimentaires lors de la vente aux consommateurs, l'identification des lots lors de la commercialisation de produits communautaires ainsi que les procédures d'inspection officielle de produits alimentaires.

En ce qui concerne les normes techniques, le Conseil aura une première discussion sur la proposition de la Commission datant de décembre 1987 concernant les machines. Cette directive vise à harmoniser les exigences essentielles pour la sécurité de nouvelles machines. Le Parlement européen a demandé l'extension de cette directive aux machines servant à travailler le bois. On doit rappeler que, parallèlement à cette proposition, la Commission a fait également une proposition concernant la sécurité de l'utilisateur de la machine dans son lieu de travail.

Le Conseil devrait finaliser l'examen de la directive sur les équipements de protection latérale de certains véhicules à moteur et de leurs remorques. Un point ouvert concerne le caractère facultatif ou obligatoire des protections latérales qui sont destinées à prévenir le risque que les cyclistes et les piétons ne soient accrochés par les roues de ces véhicules. L'option facultative permettrait aux Etats de maintenir des normes différentes pour leurs territoires nationaux, mais pour la commercialisation et la circulation à l'intérieur de toute la Communauté, le respect des normes communautaires serait exigé.

Deux points concernent la vie des sociétés dans l'Europe de 1992. Le premier a lieu à la consultation politique des institutions sur le memorandum sur le statut de la société de droit européen (rappelons que ce sujet fut discuté lors du déjeuner des ministres du 14 octobre et qu'il figure à l'ordre du jour du Conseil Affaires générales de lundi prochain).

Le deuxième concerne la proposition de règlement sur le contrôle des fusions et des concentrations d'entreprises. Il faut rappeler que la proposition de la Commission qui date de 1973 et qui a été amendée à plusieurs reprises, la dernière en date étant celle du 25 avril 1988, a reçu l'appui du Parlement européen lors de la deuxième session du mois d'octobre. Elle s'articule autour de quatre principes. D'abord les concentrations de dimension communautaire qui sont définies par des critères de chiffre d'affaires et géographique doivent faire l'objet d'une procédure communautaire. Celle-ci est faite sur la base d'une notification préalable d'un projet de fusion avec effet suspensif jusqu'à la décision de la Commission. Les fusions susceptibles d'avoir un effet négatif sur la concurrence dans le grand marché (pratiques restrictives, abus de position dominante) seront interdites. Enfin, il est prévu d'instaurer une coopération étroite et continue avec les Etats membres pour assurer la rapidité des procédures communautaires. Celles-ci comprendront une phase préliminaire d'un maximum de deux mois et devront aboutir à une conclusion en moins de six mois. Suite à un amendement du Parlement européen la durée de la procédure préliminaire est réduite à un mois, la durée totale à cinq mois, ce qui est certainement aussi sinon plus rapide que les procédures pratiquées dans les Etats membres.

Un certain nombre de questions divisent les Etats membres et concernent la notion d'exclusivité, à savoir que le droit communautaire s'appliquerait en excluant les règles nationales de concurrence, sauf dans des contextes strictement définis de "marché local", et les critères économiques et financiers à utiliser dans le contrôle des fusions. En effet, lorsqu'on met par exemple les seuils "chiffres d'affaires" à un niveau trop élevé on risque d'éliminer des secteurs entiers de l'économie, notamment ceux qui sont en plein développement dans les technologies nouvelles.

Le Conseil fera également le point sur la situation du dossier "télévision sans frontières". On constate pratiquement une division Nord/Sud au Conseil sur les problèmes principaux : définition des quotas de production communautaire et règles pour la publicité. Le Conseil devrait également finaliser une décision relative à la conclusion d'un accord entre la Suisse et la Communauté concernant l'assurance directe autre que sur la vie. Il s'agit d'éviter une situation dans laquelle le fonctionnement de cet accord pourrait limiter l'exercice des prérogatives législatives que les institutions détiennent en vertu du traité.

Les questions relatives au brevet communautaire et au droit des marques seront évoquées au cours du déjeuner. Lord Cockfield présentera également oralement les grandes lignes du rapport 8B.

Rendez-vous de midi du 17.11.1988

Matériel distribué :

IP 710 - La recherche fondamentale d'Esprit est lancée
IP 711 - Dimension sociale du marché intérieur

Réponses à des questions du PE du Président Delors sur le Conseil de Rhodes et l'espace social

Amitiés,

P. A. A.

Note BIO (88) 363 (suite 1) aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

Conseil Marché Intérieur du 18.11.1988 (E. Reuter)

Le Conseil a commencé ses travaux en examinant les dossiers alimentaires : alimentation diététique, étiquetage, identification des lots et contrôle d'inspection. Sur la base de compromis soumis par la présidence, des accords de principe sur les positions communes ont été réalisés, le Conseil devant revenir cependant sur un aspect cet après-midi.

Le Conseil a ensuite eu une longue discussion sur le contrôle des concentrations. Mme Papandreou a organisé le débat autour de trois questions fondamentales : exclusivité, définition de la compatibilité et effet suspensif des notifications.

Mme Papandreou a demandé aux ministres s'ils pouvaient marquer leur accord au principe selon lequel l'évaluation des concentrations d'envergure communautaire devrait se faire exclusivement sur base du droit communautaire et par les seules instances communautaires. Le ministre britannique, M. Maude, a insisté sur la nécessité d'aborder le phénomène des concentrations dans un contexte plus large, à savoir celui des obstacles aux fusions et aux OPA. Il était important que tous les opérateurs économiques puissent tirer avantage, de façon égale, des chances du grand marché. La proposition de la Commission ne couvrait pas le problème des OPA, alors qu'il était souhaitable de disposer de lois européennes en la matière et qu'il fallait démanteler les protections déloyales derrière lesquelles les dirigeants d'entreprises peu dynamiques pouvaient prendre refuge au détriment de leurs actionnaires. Au delà des attitudes culturelles il y avait, dans différents Etats membres, des mécanismes de défense spécifiques, tels les droits de vote réduits ou nuls attachés à certaines actions, les manipulations des actifs, les votes par procuration, etc. qui rendaient impossible la création d'un vrai grand marché pour les entreprises. Ceci dit et en maintenant une réserve générale, la délégation britannique s'est exprimée en faveur de la Commission sur le principe de l'exclusivité. Le ministre allemand, M. Schlecht, tout en appuyant la Commission, a fait valoir ses doutes quant à la possibilité pour la Commission de gérer les nouvelles procédures de manière satisfaisante, compte tenu de la charge supplémentaire de travail pour ses services.

M. Sutherland, en rappelant que cette proposition était sur la table depuis 1973, a souligné que le problème était simple. L'industrie avait besoin de clarté et de certitude juridique. La loi de la Communauté devait prévaloir sur les lois nationales. La procédure à Bruxelles devait être une procédure de décision en une seule étape et non pas ouvrir la possibilité à des double degrés de juridiction ou de procédures parallèles sur le plan européen et le plan national. Si la proposition de la Commission n'était pas acceptable, il valait mieux que celle-ci continue à exercer ses prérogatives actuels dans l'application des articles 85 et 86 du traité.

Mme Cresson, pour la France, a montré de l'intérêt pour les remarques de M. Maude en estimant que la logique communautaire devait l'emporter. Acquérir une taille mondiale était souvent important pour la compétitivité internationale d'une entreprise et souvent les entreprises européennes, ne pouvant trouver des possibilités d'accords à l'intérieur de la Communauté, en étaient réduites à s'associer aux entreprises de pays tiers. La France soutenait la Commission sur la question de l'exclusivité. Un tour de table a confirmé l'adhésion de principe des délégations à la proposition de la Commission.

Le Conseil a ensuite discuté de la définition de la notion de compatibilité d'une concentration avec les traités. M. Sutherland a souligné que l'approche de la Commission était celle de la neutralité. Il fallait d'abord examiner les effets d'une concentration sur les conditions de la concurrence et le fonctionnement de l'économie, et ensuite tirer les conclusions. Cette approche a également recueilli l'adhésion de principe du Conseil. Une position semblable s'est dégagée en ce qui concerne l'effet suspensif de la procédure d'examen par la Commission. M. Sutherland a souligné que dans la plupart des cas cet effet ne jouerait que pendant la première phase de procédure, c'est-à-dire 4 semaines. La délégation britannique s'est montrée réservée.

Tirant les conclusions de la discussion, Mme Papandreou a renvoyé le dossier au Coreper en indiquant que son but était d'arriver à un accord du Conseil le 21 décembre prochain. Elle a noté qu'il y avait un accord général sur le principe de la primauté et de l'exclusivité du droit et de la procédure communautaire des contrôles des fusions ainsi que sur les critères à appliquer aux concentrations de dimension communautaire et un accord très large sur les modalités de l'effet suspensif de ces procédures. M. Sutherland a déclaré que la Commission partageait les préoccupations exprimées par certaines délégations au sujet des obstacles existants aux opérations de concentration et aux OPA et que Lord Cockfield en était saisi. (A suivre)

Amitiés,


C.D. EHLERMANN - comeur

Bruxelles, le 19 novembre 1988

NOTE BIO(88) 363(SUITE 2) AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

CONSEIL MARCHE INTERIEUR DU 18.11.1988 (E. REUTER)

Over lunch the Ministers discussed intellectual property issues on the basis of a political compromise formula offered by the Presidency: Seat of the Trade Mark Office in Madrid, three working languages, all judicial and quasi judicial functions within the scope of the Trade Mark Office to be operated in Luxembourg, most of them attributed to the Tribunal of First Instance, ratification of the Community Patent Convention by ten Member states. Although most Ministers thought that this was an ingenious proposal, it got nowhere. The Intergovernmental conference, tentatively scheduled for December was therefore postponed. The Ministers also discussed the broadcasting directive, exchanging ideas on Community production quotas, advertising restrictions and protection of minors. Ministers shared a perception of urgency as to the necessity to complete the work especially in the light of rapid developments of direct satellite broadcasting. COREPER was asked to speed up the work on the draft directive.

After lunch, the Council took stock of the work done on the machine safety directive, noting that the Parliament had completed its first reading. The Council also adopted by unanimity a directive on the lateral protection standards for some vehicles and their trailers. The directive contains optional standards and will enter into force on 1st May 1991. The Commission had, as had the Parliament argued in favour of compulsory standards.

The Council adopted - as A Items - a number of directives concerning pharmaceutical matters and food-law. Pursuing discussions begun during the morning it adopted common positions on special diets, on labelling requirements, on batch-marking and on food inspection procedures.

A discussion on the European Company Statute confirmed known positions. Mr Maude felt that it would be a waste of time to continue work on this project which did not appear to fulfil any need or expectation of the business community. He referred to views expressed by UNICE and the Round Table. Other Ministers did not think that these views were representative. All other delegations stated varying degrees of positive interest for the Commission's concept, pleading in favour of further thinking on the fiscal aspect and in favour of guarantees that existing worker participation arrangements could not be by-passed.

The Council adopted by unanimity a regulation suspending the common customs tariff for a number of goods and materials which are not produced in the Community. The Commission had made a proposal under EEC article 28 as modified by the Single Act. Lord Cockfield said that the Council had included on its own initiative a number of items to the list proposed by the Commission. The legality of this procedure for amending the Commission's proposal was questionable and he reserved the Commission's right to seek annulment in the Court, which could lead to substantial reimbursement claims to be laid at Member states door-steps.

Lord Cockfield also presented orally the 8 b report which the Commission will present to the European Council at Rhodes. Several Ministers paid warm tributes to Lord Cockfield in his role as initiator and promoter of the White Paper programme and as the true architect and never tiring advocate of the internal market.

The Council rose at 7.30 p.m.

Regards,


Etienne REUTER

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MESSAGE # 223
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BRUXELLES, LE 19 NOVEMBRE 1988
NOTE BIO(88) 363(SUITE 2 RECT.) AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

CONSEIL MARCHE INTERIEUR DU 18.11.1988 (E. REUTER)
OVER LUNCH THE MINISTERS DISCUSSED INTELLECTUAL PROPERTY ISSUES
ON THE BASIS OF A POLITICAL COMPROMISE FORMULA OFFERED BY THE
PRESIDENCY: SEAT OF THE TRADE MARK OFFICE IN MADRID, THREE
WORKING LANGUAGES, A L JUDICIAL AND QUASI JUDICIAL FUNCTIONS
WITHIN THE SCOPE OF THE TRADE MARK OFFICE TO BE OPERATED IN
LUXEMBOURG, MOST OF THEM ATTRIBUTED TO THE TRIBUNAL OF FIRST
INSTANCE, RATIFICATION OF THE COMMUNITY PATENT CONVENTION BY TEN
MEMBER STATES. ALTHOUGH MOST MINISTERS THOUGHT THAT THIS WAS AN
INGENIOUS PROPOSAL, IT GOT NOWHERE. THE INTERGOVERNMENTAL
CONFERENCE, TENTATIVELY SCHEDULED FOR DECEMBER WAS THEREFORE
POSTPONED. THE MINISTERS ALSO DISCUSSED THE BROADCASTING
DIRECTIVE, EXCHANGING IDEAS ON COMMUNITY PRODUCTION QUOTAS,
ADVERTISING RESTRICTIONS AND PROTECTION OF MINORS. MINISTERS
SHARED A PERCEPTION OF URGENCY AS TO THE NECESSITY TO COMPLETE
THE WORK ESPECIALLY IN THE LIGHT OF RAPID DEVELOPMENTS OF DIRECT
SATELLITE BROADCASTING. COREPER WAS ASKED TO SPEED UP THE WORK ON
THE DRAFT DIRECTIVE.

AFTER LUNCH, THE COUNCIL TOOK STOCK OF THE WORK DONE ON THE
MACHINE SAFETY DIRECTIVE, NOTING THAT THE PARLIAMENT HAD
COMPLETED ITS FIRST READING. THE COUNCIL ALSO ADOPTED BY
UNANIMITY A DIRECTIVE ON THE LATERAL PROTECTION STANDARDS FOR
SOME VEHICLES AND THEIR TRAILERS. THE DIRECTIVE CONTAINS OPTIONAL
STANDARDS AND WILL ENTER INTO FORCE ON 1ST MAY 1991. THE
COMMISSION HAD, AS HAD THE PARLIAMENT ARGUED IN FAVOUR OF
COMPULSORY STANDARDS.

THE COUNCIL ADOPTED - AS A ITEMS - A NUMBER OF DIRECTIVES
CONCERNING PHARMACEUTICAL MATTERS AND FOOD-LAW. PURSUING
DISCUSSIONS BEGUN DURING THE MORNING IT ADOPTED COMMON POSITIONS
ON SPECIAL DIETS, ON LABELLING REQUIREMENTS, ON BATCH-MARKING AND
ON FOOD INSPECTION PROCEDURES.

A DISCUSSION ON THE EUROPEAN COMPANY STATUTE CONFIRMED KNOWN
POSITIONS. MR MAUDE FELT THAT IT WOULD BE A WASTE OF TIME TO

H.D.	
D.H.D.	
INFO.	
TRADE	
AGRI.	10
LEGAL	
FIN & DEV.	ALL
SCI & ENE.	
SUP. AG.	
ADM.	
C.F.	

CONTINUE WORK ON THIS PROJECT WHICH DID NOT APPEAR TO FULFIL ANY NEED OR EXPECTATION OF THE BUSINESS COMMUNITY. HE REFERRED TO VIEWS EXPRESSED BY UNICE AND THE ROUND TABLE. OTHER MINISTERS DID NOT THINK THAT THESE VIEWS WERE REPRESENTATIVE. ALL OTHER DELEGATIONS STATED VARYING DEGREES OF POSITIVE INTEREST FOR THE COMMISSION'S CONCEPT, PLEADING IN FAVOUR OF FURTHER THINKING ON THE FISCAL ASPECT AND IN FAVOUR OF GUARANTEES THAT EXISTING WORKER PARTICIPATION ARRANGEMENTS COULD NOT BE BY-PASSED.
+ THE COUNCIL ASKED THE COMMISSION TO MAKE A FORMAL PROPOSAL.
+ THIS DECISION CONCLUDES THE CONSULTATION OF THE COUNCIL.

- 2 -

THE COUNCIL ADOPTED BY UNANIMITY A REGULATION SUSPENDING THE COMMON CUSTOMS TARIFF FOR A NUMBER OF GOODS AND MATERIALS WHICH ARE NOT PRODUCED IN THE COMMUNITY. THE COMMISSION HAD MADE A PROPOSAL UNDER EEC ARTICLE 28 AS MODIFIED BY THE SINGLE ACT. LORD COCKFIELD SAID THAT THE COUNCIL HAD INCLUDED ON ITS OWN INITIATIVE A NUMBER OF ITEMS TO THE LIST PROPOSED BY THE COMMISSION. THE LEGALITY OF THIS PROCEDURE FOR AMENDING THE COMMISSION'S PROPOSAL WAS QUESTIONABLE AND HE RESERVED THE COMMISSION'S RIGHT TO SEEK ANULMENT IN THE COURT, WHICH COULD LEAD TO SUBSTANTIAL REIMBURSEMENT CLAIMS TO BE LAID AT MEMBER STATES DOOR-STEPS.

LORD COCKFIELD ALSO PRESENTED ORALLY THE 8 B REPORT WHICH THE COMMISSION WILL PRESENT TO THE EUROPEAN COUNCIL AT RHODES. SEVERAL MINISTERS PAID WARM TRIBUTES TO LORD COCKFIELD IN HIS ROLE AS INITIATOR AND PROMOTER OF THE WHITE PAPER PROGRAMME AND AS THE TRUE ARCHITECT AND NEVER TIRING ADVOCATE OF THE INTERNAL MARKET.

THE COUNCIL ROSE AT 7.30 P.M.
REGARDS,
ETIENNE REUTER

+++ END OF TEXT +++

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